

## National Science Foundation

## § 681.23

NOTE: Ordinary membership in a professional society or association is not considered an office.

(7) Current enrollment as a student [normally disqualifying, but only for proposals or applications that originate from the department or school in which one is a student].

(8) Receipt and retention of an honorarium or award from the institution within the last twelve months [automatically disqualifying].

(c) *Relationships with an investigator, project director, or other person who has a personal interest in the proposal or other application.* (1) Known family or marriage relationship [automatically disqualifying if the relationship is with a principal investigator or project director].

(2) Business or professional partnership [automatically disqualifying].

(3) Employment at the same institution within the last 12 months.

(4) Past or present association as thesis advisor or thesis student.

(5) Collaboration on a project or on a book, article, report, or paper within the last 48 months.

(d) *Other affiliations or relationships.*

(1) Any affiliation or relationship of your spouse, of your minor child, of a relative living in your immediate household or of anyone who is legally your partner that you are aware of and that would be covered by (b) or (c) of this section, if it were yours [disqualifying just as if the affiliation or relationship were yours, except for receipt by your spouse or relative of an honorarium or award, which is not necessarily disqualifying].

(2) Any other relationship, such as close personal friendship, that you think might tend to affect your judgments or be seen as doing so by a reasonable person familiar with the relationship.

### § 681.22 “Automatically disqualifying”; “normally disqualifying”.

(a) *Automatically disqualifying.* If you have an interest, affiliation, or relationship that § 681.21 designates “automatically disqualifying”, you should disqualify yourself from handling the affected proposal or other application. You must not participate in handling it *under any circumstances*. BE CARE-

FUL: in most cases a violation of this rule would be a Federal crime.

(b) *Normally disqualifying.* If you have an interest, affiliation, or relationship that § 681.21 designates “normally disqualifying”, you should disqualify yourself from handling the affected proposal or other application, *unless specifically directed to do otherwise by the conflicts official*.

### § 681.23 When a prospective, current, or recent NSF employee has an involvement or interest.

(a) If you become aware that a prospective, current, or recent NSF employee has an involvement or interest in any proposal or other application you are handling, you must bring the matter to the attention of a directorate conflicts official. For this purpose a member of the National Science Board is an employee. The conflicts official will decide how the matter should be handled and instruct you accordingly. If the file reflects that a conflicts official has already been consulted and has decided how the matter should be handled, you may proceed as the conflicts official has directed unless something of possible significance has changed.

(b) *What constitutes “an involvement or interest”.* A prospective, current, or recent NSF employee “has an involvement or interest” in a proposal or other application if the employee is, was, or will be a member of the research group or project staff involved. If the employee was a member of a research group, but has since ceased working on the project and with the group, the employee no longer has an involvement or interest. Unless there has been such a severance, however, appointment of a substitute principal investigator or substitute negotiator would not affect the requirement for consulting a conflicts official.

(c) *Finding out about it.* How do you find out that someone who has an involvement or interest in a proposal or application is a current, prospective, or recent NSF employee? There are four possibilities:

(1) The proposal or application might say so.

(2) The Foundation’s principal investigator/project director file that you

routinely check when beginning work on a new proposal will usually indicate that a listed investigator is a current, prospective, or recent NSF employee if that is the case. The mechanism by which this is arranged is explained in § 681.33.

(3) You might receive a copy of a memorandum from another NSF official indicating that an investigator on a proposal already pending or an award already active has become a prospective employee. The circumstances under which such a memorandum will be sent to you are also explained in § 681.33.

(4) You might happen to know or learn of the person's NSF employment or prospective employment through your other activities.

(d) *Your responsibility.* No matter how you find out, once you do, it is your responsibility to bring the matter to the attention of a directorate conflicts official—unless, of course that has already been done. If in doubt, consult the conflicts official or an ethics counselor.

[47 FR 32135, July 26, 1982, as amended at 48 FR 52732, Nov. 22, 1983]

**§ 681.24 Directorate conflicts officials.**

Your directorate or office is responsible for letting you know who your conflicts officials are. If you do not know, check with the office of the assistant director or office head. Subpart D (§§ 681.40 through 681.44) explains the responsibilities of the conflicts officials and provides guidance for them.

**§ 681.25 Possible conflicts of peer reviewers.**

(a) You must ask each peer reviewer of any proposal or similar application you are handling to indicate any possible conflicts of interests the reviewer may have.

(b) In the case of mail review, you may do this by including in the letter requesting the review the following language:

If you have any relationships with the institution or the persons submitting this proposal, please consider whether they could be construed as creating a conflict of interests for you. Please describe in your own words any relationship that might be so construed. You may use a separate piece of paper and

attach it to your review. Regardless of any such relationships, we would like to have your review unless you believe you cannot be objective.

(c) In the case of panel review, you should make an oral request of the panel members, essentially as follows:

If when we come to consider any particular proposal, you recognize that you have a relationship with the institution or persons submitting the proposal that could be construed as creating a conflict of interests, please let me know. I'll ask you to describe the relationship in your own words and will determine from your description what to do about the situation. You must not participate in reviewing any application in which you or a member of your immediate family or an organization of which you are or may become a part has a financial interest. Otherwise, we'll often just make a note in the file to consider when making final recommendations.

(d) You may use the list in § 681.21 as a guide in responding to reviewer questions about the relationships that should be considered. Section 684.15 explains when a panel reviewer, like any other "special employee", must be excused from review of an application because of a financial interest. Otherwise, no advance disqualification of reviewers is required. There may be other circumstances, though, in which you and the reviewer will conclude that the review would have to be disregarded and would thus be a waste of the reviewer's time.

(e) You should record in the proposal file all interests, affiliations, and relationships revealed by reviewers or otherwise known to you. You should determine how, if at all, those interests, affiliations, or relationships ought to affect the use of the review in assessing the proposal. You should describe in the file both your determination and the reasoning behind it.

**Subpart C—Identifying Prospective, Current, or Recent NSF Employees and Proposals or Awards in Which They Have an Interest**

**§ 681.30 General.**

Sections 681.23 and 681.43 provide for special handling of any proposal or

other application in which a prospective, current, or recent NSF employee has an involvement or interest. Section 681.23(c) explains generally how an official who handles a proposal or application might learn that a person who has an involvement or interest is a prospective, current, or recent employee. This subpart:

(a) Explains more precisely who is a “recent employee”, or “prospective employee” (§681.31);

(b) Identifies responsibilities of the recruiting directorate or office when a person becomes a “prospective employee” (§681.32);

(c) Explains how the recruiting directorate should inform others when it becomes clear that a prospect will become an NSF employee (§681.33(a)); and

(d) Requires the Assistant Director for Administration to provide for “flagging” the principal investigator/project director (PI/PD) file to indicate that a person listed there is a prospective, current, or recent NSF employee (§681.33(d)).

**§681.31 “Recent employee”; “prospective employee”.**

(a) *Recent employee.* Any former NSF employee who left the NSF within the year before the affected proposal or other application is filed with the NSF should be considered a recent NSF employee.

(b) *Prospective employee threshold.* As soon as those recruiting have expressed interest in a particular person in connection with a specific opening and have received some indication of reciprocal interest, that person should be considered a prospective NSF employee—even though no actual offer has been made and even though there is substantial doubt that one would be accepted if it were made. More specifically:

(1) NSF officials who have an opening on the horizon often discuss it with persons outside the NSF. If the discussion is just a general effort to make members of the appropriate community aware of the opening in the hope that applicants will appear, it makes no one a prospective employee. But if the discussion is with a particular individual whose candidacy is sought for a particular position, that individual

should be considered a prospective employee if (but only if) the candidate expresses some interest. The expression of interest need not be strong. It could amount to no more than a willingness to “think it over” or come in for a talk. After such an expression of interest NSF officials could be influenced in decisions on proposals or other applications by their hopes of getting the candidate to consider the job or to take it.

(2) When a specific vacancy is imminent, the NSF usually solicits and receives applications. Some applications may come from persons in whom there is little or no interest. Others may come from persons the recruiters have never met. Conflicts are unlikely to arise in such cases unless and until the recruiters become sufficiently interested to initiate some direct contact with the applicant, typically by suggesting an interview. At that point the applicant should be considered a “prospective employee”. If no direct contact is ever initiated outside the personnel mechanics, the applicant need not be considered a prospective NSF employee.

**§681.32 What the recruiting directorate or office should do when a person becomes a “prospective NSF employee”.**

(a) Special attention and special handling of proposals or other applications in which a prospective NSF employee has an involvement or interest are not required automatically. They are required under §681.23(a) only if an official handling the proposal or application actually becomes aware that a person involved or interested is a prospective employee. Whether to inform other officials that a person is a prospective employee is within the discretion of a conflicts official of the recruiting directorate or office.

(b) If those who are recruiting determine that a person has become a prospective employee under these guidelines, they are responsible for bringing that fact and subsequent developments to the attention of a directorate or office conflicts official. This should be an official who is not directly involved in the recruitment and does not immediately supervise the position for which

the prospective employee is being considered.

(c) The conflicts official is responsible for deciding whether, when, and to what extent proposals or other applications involving the prospect require special attention and special handling. See § 681.44.

**§ 681.33 Informing others about incoming employees; “flagging”.**

(a) *When a “prospective employee” becomes an “incoming employee”.* Each directorate is responsible for informing the Division of Information Systems by memo whenever a prospective employee listed in the NSF PI/PD (principal investigator/project director) file seems likely in fact to become an NSF employee. The memo should be sent at least as soon as the incoming employee enters into discussions of grade and salary with personnel officials. It might be sent sooner should the responsible conflicts official of the recruiting directorate or office find that appropriate. The memo should identify all active NSF awards and pending NSF proposals with which the prospective employee has an association. This should be checked with the PI/PD file and with the prospective employee.

(b) *Informing other divisions.* The recruiting directorate is also responsible for sending copies of its memo to each NSF division or office that is responsible for such an active award or pending proposal.

(c) *“Signals off”.* If the prospect does not become an NSF employee after all, the recruiting directorate is responsible for notifying by memo all those who received its original memo.

(d) *“Flagging”.* The Assistant Director for Administration is responsible for “flagging” the PI/PD file to indicate every person listed there who is a current or recent NSF employee or who has been identified in a memo from the recruiting directorate or office as an incoming NSF employee.

**Subpart D—Guidance for Directorate Conflicts Officials**

**§ 681.40 Summary; responsibilities of conflicts officials.**

(a) If your directorate or staff office has designated you as a conflicts offi-

cial, you have three responsibilities under these regulations:

(1) You determine how to handle a proposal or other application when an official who would normally handle it possesses with respect to it an affiliation or relationship listed in § 681.21. The potential conflicts you should be concerned with in such a case are generally apparent from the nature of the affiliation or relationship.

(2) You determine how to handle a proposal, or other application when a prospective, current, or recent NSF employee or a current member of the National Science Board has an involvement or interest in it. Section 681.43 describes the potential conflicts you should be concerned with in such a case.

(3) You determine whether, when, and to what extent proposals or other applications involving a prospective NSF employee require special attention and special handling. Section 681.44 offers guidance for such determinations.

(b) Section 681.41 describes the underlying considerations you are called upon to accommodate and balance in making these determinations. Section 681.42 describes the disclosure that is required in all cases that come to you for determination and the forms of special handling you might require in such cases. It also explains what you should do when a particular relationship is considered “automatically disqualifying” or “normally disqualifying”.

[47 FR 32135, July 26, 1982, as amended at 48 FR 52732, Nov. 22, 1983]

**§ 681.41 Making determinations: underlying considerations.**

When you are called upon to make any of the determinations described in § 681.40, what considerations should influence you in deciding what to do?

(a) The primary purpose of your involvement is to remove or limit the influence of any ties to an applicant institution, investigator, etc. that you think could affect the decisions of an NSF official. Keep in mind that an official may be influenced by such ties without deliberate bias. Do not, however, “strain at gnats”.

(b) A secondary purpose is to preserve the trust of the scientific community, the Congress, and the general public in the integrity, effectiveness, and even-handedness of the NSF and its award-review processes. This requires you to be concerned with appearances as well as actualities.

(c) An important countervailing consideration is to avoid distorting NSF judgments on proposals and other applications by disqualifying those who are most competent to make the judgments. So far as possible, you should ensure that those who handle a proposal or other application are competent in the scientific or technical fields involved and are capable of judging the standing of a proposal in comparison with other proposals in the same field.

(d) Occasionally, action on a proposal or other application raises significant policy questions. As far as possible, you should avoid preventing an official who is responsible for the policy judgments in question from exercising that responsibility.

(e) Finally, you can and should consider the extra paperwork, effort, and expense to the taxpayer required by any special handling you might require.

Except where an interest, affiliation, or relationship is designated “normally disqualifying” or “automatically disqualifying”, finding ways to accommodate and balance these competing considerations is left to your ingenuity and judgment.

**§ 681.42 Disclosure, disqualification, and other special handling.**

(a) *Disclosure.* In every case brought to you as a conflicts official, you should prepare a simple memo for the file. The memo need not be in any particular format and may be handwritten. It should identify the potential conflicts problem involved and should explain what special handling, if any, you have required. Even if you require no additional special handling, the memo will ensure that the Foundation is open about the potential conflict and attentive to it. It will allow those reviewing the recommended action at higher levels to consider any effect the potential conflict might have

had and alert them to scrutinize the action more closely. It will allow meaningful audit and oversight and so protect those involved, including you. And it will help preserve public trust in the NSF and in NSF decisions.

(b) *Disqualification.* In some cases disclosure alone will be insufficient to protect against distortion of NSF decisions or undermining of public trust in the NSF and NSF decisions. On conflicts considerations alone, disqualification of the official who possesses the potential conflict is the best solution. But if the official has unique scientific or technical competence, is uniquely qualified to judge the competitive standing of a proposal, or has responsibility for policy judgments raised in the decision—disqualification of that official would have serious disadvantages. Although decisions on the kind and degree of special handling that should be required are often left to your discretion, more inflexible disqualification rules do apply in the case of certain interests and affiliations.

(1) If an interest or affiliation is labelled “automatically disqualifying” in § 681.22, you *must* disqualify any official who possesses such an interest or affiliation with respect to the proposal or application concerned. In most cases, the disqualification is required by criminal law. If you were to allow the official to take any part in the handling of the proposal or application, you would place him or her (and conceivably even yourself) in jeopardy of fine or imprisonment.

(2) If an interest or affiliation is labelled “normally disqualifying” in these regulations, you should normally disqualify any official who possesses such an interest or affiliation with respect to the proposal or application concerned. If unusual circumstances require that such an official be allowed to act on the proposal or application, your memo to the file should carefully explain those circumstances and what other precautions you have taken to minimize the potential for bias. Even then, you should not proceed until you have consulted an ethics counselor and the ethics counselor concurs.

(3) Even if an interest or affiliation is *not* labelled “automatically” or “normally” disqualifying, disqualification

may be called for. Your judgment should depend heavily on the extent to which someone else who will be able to substitute effectively for the official might be disqualified.

(c) *Other special handling.* You are not confined to relying either on disclosure only or on complete disqualification. Other, intermediate solutions can also go a long way toward removing or minimizing any potential for bias. For example:

(1) Sometimes you might allow a case to be handled normally, but provide for extra peer reviews or extra review within the NSF.

(2) Sometimes you might have an official perform some functions but not others. The official might be able to supply a list of potential reviewers, for example, without running into serious conflicts. Or the official might be consulted by a substitute official on the competitive range in the program where the substitute is competent enough to read reviews and judge the merit of a proposal, but ill-prepared to determine where that places the proposal among those competing for funds within the same program.

(3) In some cases scientists from outside the NSF could be relied on to a greater extent than usual. For example, suppose a substitute NSF official has less than optimal technical competence or less than optimal sense of the competitive range in the affected program. Such a substitute might nonetheless be able to stand in if aided by an outsider who is more familiar with the scientific subfield or the affected program or both. The outsider might be a former NSF official, a panel member, a scientist from a sister agency, or in an unusual case, a special consultant.

(4) In any case involving a current member of the National Science Board, you must always require that any proposed award, additional funding for an award, or continuing grant increment be presented to the Board for its information before any final action is taken.

(d) *Consolidated handling of related cases.* If you anticipate a number of cases that will involve the same person and the same general circumstances, you may make a single determination

and issue a single memo covering all of the cases. For example, you might issue a memo indicating that a rotator will be disqualified from handling any proposal or application from his or her home institution, and saying who will handle any such proposal or application instead. A copy of this memo should be placed in the file for each affected proposal or award.

[47 FR 32135, July 26, 1982, as amended at 48 FR 52732, Nov. 22, 1983]

**§ 681.43 Potential conflicts when an NSF employee has an involvement or interest.**

(a) When a prospective, current, or recent NSF employee has an involvement or interest in a pending proposal or other application, you should look for and deal appropriately with the five types of potential conflicts described in the rest of this section.

(b) *Recruiter's conflicts.* These are potential conflicts that could arise if an NSF official who is recruiting a prospective employee were simultaneously to handle a proposal or other application in which the prospective employee has an interest. You should identify those actively interested in recruiting the prospective employee and look for ways to limit their involvement in the handling of the proposal or other application. In particular:

(1) The person who would be the immediate supervisor of the prospective employee usually will have an especially active interest in successful recruiting. You should treat that interest as "normally disqualifying".

(2) Those directly involved in discussions with the prospective employee will also have an interest in successful recruiting. You should consider their possible conflicts.

(3) Officials at higher echelons who are not directly involved in the particular recruitment may still have an interest in successful recruiting within their organizations. You should consider their possible conflicts.

(c) *Superior's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which one of the official's subordinates has an interest. In particular:

(1) The immediate supervisor of an employee usually will have an especially active interest in having the employee happy and in maintaining good relations with the employee. You should treat the immediate supervisor's interest as "normally disqualifying" if the interested employee is a prospective or current employee. You need not do so, however, in the case of a recent employee, for the supervisor's interest diminishes when the employment relationship ends.

(2) Persons at higher echelons might also be influenced by an interest in having the employee happy. You should consider whether their involvement in handling the proposal or application can or should be limited.

(d) *Subordinate's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which the official's immediate superior or someone at a higher echelon in the official's "chain of command" has an interest. In particular:

(1) An NSF official would be placed in a particularly difficult position if asked to act on a proposal or other application in which the official's boss has an interest. Thus you should treat the immediate subordinate of a prospective or current employee as having a "normally disqualifying" relationship and only under the most special circumstances allow him or her to have any part in handling the proposal or application. You need not necessarily disqualify one who was the immediate subordinate of a recent employee, however, since the potential conflict would be substantially diminished once the supervisor-subordinate relationship ends.

(2) You may sometimes have to allow less immediate subordinates at lower echelons to play a role if there is not to be serious loss of technical competence and awareness of competitive range in the program affected. But you should take particular care in involving such lower-echelon subordinates. Disqualification would be preferable if it is workable. One possibility if disqualification is not workable may be to allow the official handling the proposal to stay anonymous, dealing with investigators and the grantee institution

through another NSF official—perhaps a senior official or a grants officer. Other types of special handling that might be useful in such a case are described in § 681.42(c).

(e) *Professional associate's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which a close professional associate at the NSF has an interest. In particular:

(1) You may have to consider disqualification of a very close associate of the interested employee, particularly where professional association may have led to personal friendship.

(2) When the degree of professional association and personal acquaintance involved is only what normally arises from service within the same organizational unit, little more than disclosure should normally be required.

(f) *Reviewer's conflicts.* These are potential conflicts that could arise when reviewers are asked to pass upon a proposal involving the interests of a scientist who will later be passing upon their proposals as an NSF program official. To avoid them:

(1) All files, active and inactive, that involve research or a research group with which the employee was or is associated should be sequestered to protect the anonymity of reviewers.

(2) To the extent possible you may want to provide more protection by selecting as peer reviewers persons who are not supported by any program for which the interested official is responsible.

#### **§ 681.44 Handling prospective-employee determinations.**

(a) You may be called upon to determine whether, when, and to what extent proposals or other applications that involve a prospective employee require special attention and special handling. You should be consulted as soon as a person becomes a prospective employee. The procedure for this is described in § 681.32.

(b) *Nature of possible conflicts.* Actual or potential conflicts of interests can arise in such a situation if any of those who would handle a proposal or other application either is trying to recruit the prospective employee or would be a

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subordinate, supervisor, or close colleague of the potential employee.

(c) *When you should take action.* If there is a significant possibility that such actual or potential conflicts could improperly influence decisions on proposals or other applications or awards, you must institute special handling as described in §§681.42 and 681.43. In the case of proposals and awards outside your own directorate or office, you should do that by notifying officials of the other directorate. A conflicts official of that directorate or office will determine what special handling may be necessary there.

(d) *Avoid premature action.* However, you should avoid unnecessarily early disclosure that a person is under consideration for an NSF position, for two reasons:

(1) That a person is considering a change of jobs is often confidential, particularly in earlier stages; and

(2) That an interested person is a prospective NSF employee cannot affect an official's judgment on a proposal or other application if the official has no knowledge of the prospective employment.

Since an official who works in one NSF organizational unit is less likely to know that a person is under consideration for employment in a different unit, and is also less likely to be influenced by any such knowledge, it normally makes sense to delay notifying officials outside the recruiting unit until it seems quite likely that the prospect will indeed become an NSF employee.

## PART 682—REPRESENTATIONAL RESTRICTIONS AND INVOLVEMENT WITH PROPOSALS AND PROJECTS DURING AND AFTER NSF SERVICE

### Subpart A—The Representational Restrictions Generally

Sec.

682.10 Summary; the four basic representational restrictions.

682.11 "Official responsibility"; "personally involved".

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682.14 Restriction on your partners.

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### Subpart B—Involvement With Proposals and NSF—Supported Projects During and After NSF Service

682.20 General; restricted representational activities vs. permitted research or educational activities.

682.21 Proposals and projects over which you had official responsibility or with which you were personally involved.

682.22 When you are or would be principal investigator.

682.23 Compensation or reimbursement of expenses from Federal awards.

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### Subpart A—The Representational Restrictions Generally

#### § 682.10 Summary; the four basic representational restrictions.

(a) NSF employees are subject to four basic restrictions on representing private parties (not the Government) in dealings with other Federal officials. The first of these applies while you are working for the Government. The other three apply for varying periods afterward; they are thus known collectively as the post-employment restrictions.

(1) *Current-employee restriction.* During your Federal employment you must not represent private parties in dealings with any federal official on any proposal, project, or other matter.

(2) *One-year NSF restriction.* For one year after you leave NSF employment you must not represent private parties in dealings with any NSF official on any proposal, project, or other matter.

(3) *"Official responsibility" two-year restriction.* For two years after you leave NSF employment you must not represent private parties in dealings with any Federal official on any proposal, project, or other matter involving specific parties if the same matter was active under your official responsibility during your last year at the NSF.

(4) *"Personal involvement" permanent restriction.* You must never represent private parties in dealings with any Federal official on any proposal,



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project, or other matter involving specific parties if you were personally involved with the same matter as an NSF employee.

All four restrictions have to do with representing private parties in dealings with NSF officials or other Federal officials. Here are the distinguishing features:

Current employee restriction .....	During Federal employment	Any Federal official ...	Any matter.
One-year NSF restriction .....	For one year after NSF employment.	Any NSF official .....	Any matter.
"Official responsibility" two-year restriction.	For two years after NSF employment.	Any Federal official ...	Any matter involving specific parties that was under your official responsibility.
"Personal involvement" permanent restriction.	Forever .....	Any Federal official ...	Any matter involving specific parties in which you were personally involved.

(b) *Examples.* The following examples illustrate the application of these rules.

*Example 1:* You have been on the Physics faculty at the University of Wyoming and have been principal investigator on grants from the NSF and from the Department of Defense. You come to the NSF for a two-year stint as a section head. While you are away a colleague acts as principal investigator on both your grants. During your stint at the NSF the Department of Defense grant is about to expire. The substitute principal investigator files a new proposal with DOD. She asks you to call the DOD program officer, with whom you have great credibility from past dealings, to vouch for her excellence and to urge that he continue to fund the Wyoming work. The current-employee restriction prohibits you from doing so.

*Example 2:* Same underlying facts as Example 1. After your stint at the NSF you return to Wyoming and want again to become principal investigator on the NSF-supported work. You may do so, but the one-year NSF restriction prohibits you from calling, writing, or visiting NSF officials to represent yourself or your institution on the award.

*Example 3:* Same facts as Examples 1 and 2. A few months after your return it comes time to file a new proposal for another NSF award so that you can continue the line of investigation you have been pursuing with the NSF support. You may prepare a proposal for your institution and may be listed as principal investigator, but the one-year NSF restriction prohibits you from calling, writing, or visiting NSF officials to represent yourself or your institution on the proposal.

*Example 4:* Same underlying facts as Example 1. During the last year of your tenure as section head another physics proposal came in from the University of Wyoming. Though the program officer who handled the peer review and submitted a recommendation was in your section, you disqualified yourself from any participation in handling the proposal. A three year continuing grant was

awarded. *Within two years* after you return to Wyoming a problem comes up with the last increment of the continuing grant. You have meanwhile become department chairman. As department chairman you would normally confer with NSF officials about the problem and try to resolve it. The "official responsibility" two-year restriction prohibits you from doing so. If the problem came up more than two years after you left the NSF, however, you would be free to confer with NSF officials. The "official responsibility" two-year restriction would no longer apply, and the "personal involvement" permanent restriction would not apply because you had no personal involvement in handling the proposal while at the NSF.

*Example 5:* While you were Director of the Division of Grants and Contracts at the NSF you personally approved the terms of a contract to the Solar Equipment Company for development of solar heating equipment. Subsequently, responsibility for this contract was transferred to the Department of Energy. After you retire from your NSF position, you accept a position with the Solar Equipment Company. A problem comes up under the same contract, and you would normally be responsible for resolving it in discussions with DOE officials. The "personal involvement" permanent restriction prohibits you from doing so. That you would be dealing with DOE officials, not NSF officials, makes no difference: the restriction applies to dealings with any Federal official.

(c) *Proposals and projects.* Subpart B (§§682.20 through 682.23) is devoted entirely to the application of the representational restrictions in relation to proposals and projects. In relation to proposals and projects you may rely entirely on subpart B.

(d) *Other matters.* For most current and former NSF employees the representational restrictions will rarely apply except in relation to proposals and projects. You are nonetheless responsible for making yourself familiar

with the restrictions and abiding by them in relation to all covered matters.

(e) *Terms and effect.* The wording of the restrictions as presented in this section and §682.20 has been simplified substantially from the wording of the underlying statutes, so that they will be easier to understand. In the process, they have also been deliberately overstated, with exceptions and “escape hatches” left out, so that your initial reaction will be to interpret them conservatively. The next three sections fill in critical concepts: what it means to have “official responsibility” or to be “personally involved” (§682.11); what is and is not representation subject to the restrictions (§682.12); and which are the matters on which representation is restricted (§682.13). In the process they explain the exceptions and refinements left out in this section.

(f) *Partners.* During your Federal service only, there is a further restriction that applies to any partner of a business or professional partnership to which you belong. If you belong to any such partnership, see §682.14.

(g) *Source statutes and penalties for violation.* For the most part these restrictions derive from Federal criminal statutes and apply to officials of all Federal agencies. In one respect the NSF rules are stricter. At other agencies the one-year agency restriction applies only to former high-ranking officials; the one-year NSF restriction applies to all former NSF employees. Violation of the statutory provisions can lead to criminal prosecution (the penalties are a fine of up to \$10,000 or imprisonment for up to two years of both) or to civil debarment from dealings with the NSF (for up to five years). A violation of the NSF’s current-employee restriction can lead to disciplinary personnel action against an employee.

(h) *Consultation.* If in doubt about any of the rules in this part, consult an ethics counselor in the Office of the General Counsel. You are welcome to consult an ethics counselor for this purpose even after you leave the NSF.

### **§682.11 “Official responsibility”; “personally involved”.**

(a) The “official responsibility” two-year restriction applies only if you had official responsibility for the matter in question during your last year at the NSF. The “personal involvement” permanent restriction applies only if you were personally involved with the matter in question while at the NSF. This section elaborates the concepts of “official responsibility” and “personal involvement”.

(b) *“Official responsibility”.* You had “official responsibility” for a matter if you had direct authority to approve, disapprove, or otherwise direct Government actions regarding that matter, and it was actually pending during your tenure. It does not matter whether your authority was intermediate or final, whether it was exercisable alone or with others, or whether it was exercisable personally or through subordinates. Specifically:

(1) The scope of your “official responsibility” is ordinarily determined by the responsibilities of position you filled or the organization you headed.

(2) Any matter under consideration in the NSF is under the “official responsibility” of the Director and of each intermediate supervisor who has responsibility for any employee who actually participates in the matter within the scope of his or her duties.

*Example:* A proposal under consideration within a particular program is under the “official jurisdiction” of the program officer who actually handles it, of the program director for the program, of the responsible section head, of the responsible division director, of the responsible assistant director, and of the Director of the NSF. Whether it is under the “official responsibility” of any of their deputies depends on the responsibilities assigned to the deputies by their position descriptions, by any formal delegations to them, or by an other legally effective means.

(c) *“Personal involvement”.* “Personally involved” is short for the following statutory language:

“Participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise”.

In other words:

(1) You may have “participated” and so have been “personally involved” even though you actually made none of the important decisions. You “participated” if you made recommendations, rendered advice, conducted an investigation, or otherwise contributed. Moreover, “approval” is specifically covered. Giving a required approval, however perfunctorily, is covered if the action could not have been taken over your objection.

(2) On the other hand, there is a distinction between personal involvement and official responsibility. If you could have intervened in the matter because of your position, but in fact did not, you were not “personally involved”.

(3) You must have participated “personally”. You participated personally if you gave directions or instructions about the matter to a subordinate who participated directly. If a subordinate participated without any direction or instruction from you about that particular matter, and you did not otherwise participate, you did not participate personally.

(4) You must have participated “substantially”. That requires more than knowledge of what was going on, perfunctory involvement, or involvement on an administrative or peripheral issue. Your participation was “substantial” if it was significant to the outcome or would have seemed so to a reasonable outside observer, considering not only the effort you devoted to the matter but the influence of your effort on the outcome. A single act of a critical step, such as an approval, may be substantial. A series of time-consuming peripheral involvements, such as review solely for compliance with administrative or budgetary controls, may be insubstantial.

#### § 682.12 Representation covered.

(a) *Representational dealings.* All four of the basic representational restrictions are restrictions on representing private parties in dealing with NSF officials or other Federal officials. The dealings covered are encompassing. They include any formal appearance before an official; any meeting with an official; and any letter, phone call, or other communication with an official.

(b) *Intent to influence and potential controversy required.* Contacts as a representative without intent to influence the officials contacted are not prohibited. Nor are contacts as a representative in connection with a routine request not involving a potential controversy. For example, you may ask a question about the status of a particular matter, as long as there is no implicit attempt to influence the outcome. You may request publicly available documents. You may communicate with an official to impart purely factual information as long as the communication has no connection with an adversary proceeding.

*Example:* While an NSF employee you helped write the current contract for the Kitt Peak National Observatory, with which you are now a staff scientist. You are asked to make a scientific presentation to NSF officials at the annual review of the Kitt Peak program. You may do so. You may not, however, participate in or support any appeal for more funds for Kitt Peak during the review. Indeed, it would be better for you to not be present at all when funding and other contractual subjects are discussed. If you were not a staff scientist at Kitt Peak, but only a user, that would not change things for this purpose.

(c) *Assisting without appearing or communicating with officials.* You are not prohibited from helping those who are representing a private party with Federal officials, as long as you do not yourself make an appearance or otherwise communicate with the officials. You may advise officials or representatives of the party, may make suggestions about whom they should contact and what they should say, and may even draft documents and letters, as long as you do not personally sign or transmit them. CAUTION: What is permitted under Federal law may be prohibited by rules of professional ethics, particularly if you are a lawyer.

(d) *Assisting by personal presence at an appearance or meeting.* A former high-ranking employee (SES, GS-17, or above) who had official responsibility for a matter or was personally involved while a Federal employee may violate the criminal statutes by being present to assist others at a meeting with Federal officials or an appearance before them, even though the former employee never speaks with the Federal

officials. The NSF goes further and asks that (whether high-ranking or not) if you would be barred from directly representing anyone in connection with any matter, you refrain from being personally present while others are meeting with NSF officials. In rare cases where there are special circumstances the General Counsel or the Director may waive this restriction to the extent consistent with the Government-wide law and regulations.

(e) *Dealings with officials of the legislative branch not covered.* Where the basic representational restrictions refer to dealings with “Federal officials”, that covers officials of a Federal Executive-branch or administrative agency and officials of Federal courts or administrative tribunals. It does not, however, encompass Members of Congress, their staffs, or other officials of the legislative branch.

(f) *Representing the United States.* During your Government service, you may naturally represent your office, the NSF, or the Government (or anyone else, for that matter) with other Federal officials if the representation is part of your official duties. After your Government service, moreover, you may represent an office or agency of the Government in dealings with officials of another office or agency any time you are asked to do so.

(g) *Representing yourself.* The “official responsibility” two-year restriction and the “personal involvement” permanent restriction do not apply if you represent only yourself. They would apply, however, if you were to represent yourself *and* another person, such as an institution or organization with which you are employed or affiliated. The current-employee representational restriction and the one-year NSF restriction *would* apply even if you were to represent only yourself. Even they, however, would not apply to:

(1) Any expression of your views on policy issues, where the circumstances make obvious that you are only speaking as an informed and interested citizen, not representing any financial or other interests of your own or of any other person or institution with whom you are associated;

(2) Any appearance or communication concerning matters of a personal and individual nature, such as your income taxes; your salary, benefits, or rights as a Federal employee; or the application of conflict-of-interests rules to something you propose to do; or

(3) Any appearance on your own behalf in any litigation or administrative proceeding.

They do apply, though, to contacts seeking grants or business, except for discussions about employment with an agency as a consultant or otherwise and to scientific or technical proposals, presentations, or communications. See § 682.20.

#### § 682.13 “Matters” covered.

(a) *Matters involving specific parties.* The “official responsibility” two-year restriction and the “personal involvement” permanent restriction both cover only a “matter involving specific parties”. Generally, such a matter is a specific proceeding affecting the legal rights of the parties to the proceeding or an isolatable transaction or related set of transactions between identifiable parties. A “party” may be either a person or an institution, and one such party other than the Government is enough.

(1) In the context of the NSF a “matter involving specific parties” will usually consist of a proposal or bid, the award-or-declination decision process with respect to it, any award that results, and any subsequent administrative action related to the project. Such “matters” are covered in Subpart B of this part.

(2) Otherwise, typical “matters involving specific parties” include other kinds of contracts or agreements; applications for permits, licenses, or the like; requests for rulings or similar official determinations; claims; investigations or audits; charges or accusations against individuals or firms; adjudicatory hearings; and court cases. These are relatively uncommon at the NSF, but when current or former NSF employees have been officially responsible for such matters or personally involved in them, the representational

restrictions may apply. If in doubt consult an ethics counselor in the Office of the General Counsel.

(b) *Same or different matter.* The “official responsibility” two-year restriction and the “personal involvement” permanent restriction cover such a matter only if during your NSF service the *same* matter was under your official responsibility or you were personally involved in it. Except where guidance is provided in Subpart B of this part, you should not decide for yourself whether a “matter involving specific parties” is the same as one for which you had “official responsibility” or with which you were “personally involved” while at the NSF. Consult an ethics counselor in the Office of the General Counsel.

(c) *Other “matters”.* The current-employee restriction and the one-year NSF restriction both cover matters that do *not* “involve specific parties” as well as those that do. Such broader “matters” include:

- (1) Determinations to establish or disestablish a particular program or set its budget level for a particular fiscal year;
- (2) Decisions to undertake or terminate a particular project;
- (3) Decisions to open or not open a contract to competitive bidding;
- (4) Decisions on particular NSF rules or formal policy, such as adoption or amendment of a resolution by the National Science Board, promulgation or amendment of an NSF regulation or circular, amendment of standard grant or contract terms, or changes to such NSF policy documents as *Grants for Scientific Research* and the *Grants Policy Manual*; and
- (5) Agency positions on particular legislative or regulatory proposals.

On the other hand, the statutory term is really not just “matter”, but “particular matter”. The word “particular” is intended to exclude broad technical areas, policy issues, and conceptual work done before a program has become particularized into one or more specific projects. You should not, however, rely on this hazy distinction alone to take you out from under either of the representational restrictions that cover matters not involving specific parties without checking with

an ethics counselor in the Office of the General Counsel.

(d) *Boundaries of matters not involving specific parties.* In connection with the current-employee restriction and the one-year NSF restriction, you need not consider whether a “matter” is the same as or separate from any other matter. Those two restrictions cover any “matter”, whether or not you have previously had any responsibility for or involvement with it.

#### **§ 682.14 Restriction on your partners.**

While you are a Federal official no person who is legally your partner in a business or professional partnership may act as agent or attorney for anyone in dealings with any other Federal official on any matter under your official responsibility or with which you are or have been personally involved as a Federal official. A partner who violates this rule commits a Federal crime punishable by a fine of up to \$5000 or imprisonment for up to one year or both. In general, your partners may safely steer clear of this restriction by using the definitions and guidance in the earlier sections of this Subpart A, treating “act as agent or attorney” as equivalent to “represent” (it may actually be slightly less encompassing). They may consult on this restriction with attorneys in the Office of the NSF General Counsel. If they prefer to consult other counsel, the counsel should be directed to 18 U.S.C. 207(g).

#### **Subpart B—Involvement With Proposals and NSF-Supported Projects During and After NSF Service**

#### **§ 682.20 General; restricted representational activities vs. permitted research or educational activities.**

(a) *Basic representational restrictions.* The same four representational restrictions described in Subpart A of this part apply to representational activities involving proposals or projects.

(1) *Current-employee restriction.* During your Federal employment you must not represent anyone (including yourself) in dealings with any Federal official on any proposal or project.

(2) *One-year NSF restriction.* For one year after you leave NSF employment you must not represent anyone (including yourself) in dealing with any NSF official on any proposal or project.

(3) *“Official responsibility” two-year restriction.* For two years after you leave NSF employment you must not represent anyone else in dealing with any Federal official on any proposal or project if the same proposal or project was active under your official responsibility during your last year at the NSF.

(4) *“Personal involvement” permanent restriction.* You must never represent anyone else in dealings with any Federal official on any proposal or project if you were personally involved with the same proposal or project as an NSF employee.

(b) *Examples.* Examples 1 through 4 in §682.10(b) illustrate the application of these restrictions.

(c) *General effect.* These representational restrictions do not preclude you from being involved as a researcher or educator with proposals submitted to the Government or projects supported by the Government. They do preclude you from negotiating with NSF officials or other Federal officials and from engaging in other representational activities intended to influence their decisions on certain proposals and projects.

(d) *Restricted representational dealings.* If you write, call, visit, or otherwise communicate with an official you have “dealt” with the official. Those dealings are representational if you try to influence the official to suggest, recommend, or approve:

- (1) An award;
- (2) An award amount, a budget, or particular budget items;
- (3) Particular award terms or conditions;
- (4) An award amendment, increase, or extension;
- (5) An administrative approval; or
- (6) Any other action affecting a proposal or project.

(e) *Permitted research and educational activities.* You do not engage in representational dealings, and so you violate none of the representational restrictions, by:

(1) Participating in research or other work supported under an award from the NSF or another Federal agency;

(2) Being listed as an investigator in a proposal or award;

(3) Preparing a proposal that will be submitted to the NSF or another Federal agency (but if you prepare it during your NSF tenure, you must do so entirely on your own time);

(4) Making a scientific or technical presentation to officials of the NSF or another Federal agency (at a site visit, for example) or otherwise communicating scientific or technical information to them on the work being proposed or conducted; or

(5) Communicating with officials of the NSF or another Federal agency, with no intent to influence them, to request routinely available and non-controversial information, such as the status of the decision process on a proposal.

Be very careful with these last two activities particularly; it would be easy to fall into trying to influence actions of the officials involved. If you can, let someone else make the presentation or request. If in any doubt, consult an ethics counselor in the Office of the General Counsel.

(f) *Specifics on proposals.* You may prepare a proposal for submission to the NSF or another Federal agency even though you would be precluded by one of the three post-employment restrictions from any representational dealings with agency officials about it. You may sign the cover sheet to signify your agreement to assume responsibility for the scientific and technical direction of the project and for the preparation of required technical reports. You may not, however, sign the cover sheet as “authorized official” or sign any cover letter submitting the proposal for the institution. Nor may you call, write, or visit the agency program officer who is handling the proposal to urge an award, haggle over budgets, or the like. You may respond to requests from the program officer or another NSF official for scientific and technical information relating to the proposal, such as might be needed to respond to reviewer comments. You must not, however, couple the information you supply with any attempt to

influence the decision on the proposal other than what inheres in the provision of the information itself. (If possible, have someone else respond.) At the NSF the proposal will receive special scrutiny and may require special handling to avoid conflict of interests, but you have no special responsibility in that connection.

(g) *Other issues related to representation.* Section 682.12 covers a number of other issues related to representation. Among these are assisting in representation without appearing or communicating with official (generally permitted); assisting by personal presence at an appearance or meeting (generally prohibited); representing the Government (generally permitted); and representing yourself along (depends). The rules and explanations given there apply to proposals or projects just as to other matters. If any confusion persists after you read them, consult an ethics counselor in the Office of the General Counsel.

**§ 682.21 Proposals and projects over which you had official responsibility or with which you were personally involved.**

(a) The “official responsibility” two-year restriction applies only if you had official responsibility for the proposal or project in question during your last year at the NSF. The “personal involvement” permanent restriction applies only if you were personally involved with the proposal or project while at the NSF. You will therefore need to know: (1) When a project is the same as one proposed or active while you were at the NSF, and (2) whether you had official responsibility for the project or were personally involved with it.

(b) *When is a project the same project?* All usual aspects of handling a particular proposal and any award based on it relate to the same “project”. These include:

- (1) The initial peer review and award-or-declination decision process;
- (2) Review and approvals of an award recommendation;
- (3) Negotiation of budget and award terms;
- (4) Negotiation of award amendments;

(5) Consideration of continuing-grant increments; and

(6) Consideration of any extensions or administrative approvals.

(c) *Exceptions.* (1) A negotiation or determination on disposition of rights in any invention or publication that arises out of an award normally is a separate matter from the processing and monitoring of the award, but not from discussions or negotiations about disposition of rights that took place before the invention was made or the publication written.

(2) Separate task orders under a continuing order agreement or the like constitute separate “matters” if the tasks and the negotiations are actually separate.

(3) An ethics counselor may determine that other matters arising from a particular proposal or award constitute separate “matters” if the circumstances warrant.

(d) *Renewals.* An application that involves a continuation or outgrowth of work that the investigators have been doing under a previous NSF and award is part of the same “project” as the original proposal and project unless:

(1) A complete new proposal and a new budget are submitted;

(2) They are subjected to a complete new competitive peer review or evaluation; and

(3) The review or evaluation involves a new group of reviewers, a substantial fraction of whom did not review the earlier proposal.

(e) *“Official responsibility”.* You had “official responsibility” for a proposal or project if you were personally responsible for handling it or if you headed a directorate, division, section, or program that was responsible for handling it. (The Director has “official responsibility” for every proposal or project active at the NSF during his or her tenure.) You will find further elaboration of “official responsibility” in § 682.12(b).

(f) *“Personal involvement”.* You were “personally involved” with a proposal or project if you handled the peer review of the proposal; if you made any formal recommendation or decision on it, including any approval of an award recommendation or other action; if you reviewed the proposal or made a site

visit; or if you otherwise made a substantial contribution to the handling of the proposal or project. You will find further elaboration of “personally involved” in § 682.12(c).

**§ 682.22 When you are or would be principal investigator.**

(a) *Retention of ties to research, etc. permitted.* Many scientists and educators interrupt active research and teaching careers to spend a year or two at the NSF as “rotators” and then return to research and teaching, usually at the same institution from which they came. Many such rotators (and a few permanent employees) who have been principal investigators under NSF awards before coming to the NSF, retain some interest or association with the work. If you have been the principal investigator under an NSF award, you are not precluded from retaining ties to the work under the award after you become an NSF employee. Subject to the restrictions on outside employment explained in Part 683 of the NSF conflict-of-interests regulations, you may stay in contact with those who are continuing the work in your laboratory or on your project. You may continue to supervise graduate students. And you may visit and work in the laboratory on your own time for these purposes.

(b) *Substitute principal investigator.* Before you come to the NSF, however, the NSF requires that you and your institution designate, subject to NSF approval, a substitute principal investigator—*i.e.*, another scientist who will be responsible for the work and equipment and will represent the project and the institution in any dealings with NSF officials while you are at the NSF.

(c) *Suspension of work on an NSF award.* Appointment of a substitute principal investigator is unnecessary if all work under an award is to be completely suspended while you are at the NSF. If the work is to be suspended, you and your institution should so inform the NSF by letter before your NSF employment begins. Work under the award may be resumed when you complete your NSF employment, and its term may be extended to account for the time lost during your NSF employment.

(d) *Substitute negotiator.* As soon as you leave the NSF, you may again be principal investigator on an NSF project, may be listed as principal investigator in any proposal or award, and may sign a proposal as principal investigator. However, the NSF asks that you and your institution formally designate (subject to NSF approval) a “substitute negotiator” who, though not principally responsible for the work, will represent the project and the institution in dealings with NSF officials from which you would be restricted. In the typical case, the one-year NSF restriction will require that a substitute negotiator continue to serve that function for one year after you leave the NSF. In the rarer case of a proposal or project for which you had official responsibility or with which you were personally involved, there should be a substitute negotiator for as long as the “official responsibility” two-year restriction or the “personal involvement” permanent restriction bar you from such representational dealings.

(e) *Renewal proposals submitted during your NSF service.* During your NSF service a proposal may be submitted for continuation or extension of work on which you were principal investigator before coming to the NSF and to which you intend to return. The role you will play in the work proposed should be clearly spelled out in the proposal, and the proposal should prominently indicate that you are currently an NSF employee. If work under a resulting award would begin before you leave the NSF, a substitute principal investigator must be named. If the work would not begin until after you leave the NSF, you may be named as principal investigator, but a substitute negotiator must be named.

(f) *Your involvement or interest in project to be open.* The appointment of a substitute principal investigator or a substitute negotiator is not intended to conceal or obscure your continued involvement or interest in the project. Just the opposite: your involvement or interest should be made unmistakably plain. This will ensure that any proposal or other award-related application will be given the special attention



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and special handling called for under Part 681.

(g) *Purposes of “substitute” requirements.* The appointment of a “substitute principal investigator” or “substitute negotiator” ensures against unthinking violation of the restrictions on dealings with NSF officials. It serves this purpose by flagging proposals or awards affected by the restrictions and by identifying someone else with whom NSF officials can properly discuss them or negotiate over them. Designation of a substitute principal investigator while you are at the NSF has two additional functions: It identifies another person to be responsible for the work and equipment, and it reminds all concerned that during your NSF service your primary attentions must be on your NSF duties.

(h) *Proposals and awards of other agencies.* The “substitute principal investigator” and “substitute negotiator” requirements described in this section are specific to the NSF. If you are or would be a principal investigator under a project proposed to or supported by another Federal agency, however, you should carefully observe the representational restrictions as they apply to dealings with officials of other Federal agencies. The current-employee restriction is particularly likely to apply.

### **§ 682.23 Compensation or reimbursement of expenses from Federal awards.**

(a) *Compensation from NSF awards.* While you are an NSF employee, you may not receive any salary, consulting fee, honorarium, or other form of compensation for your services from an NSF award either directly or indirectly. In other words, you may not receive money for your services in connection with a project, a conference, or other work that was supported in whole or in part by funds provided from an NSF award. After you cease to be an NSF employee, you may again receive compensation from an NSF award.

(b) *Expenses from an NSF award.* While an NSF employee you may not receive any reimbursement of expenses from an NSF award. You may receive reimbursement of expenses from other Fed-

eral awards to the extent consistent with § 683.33.

[47 FR 32140, July 26, 1982; 47 FR 34151, Aug. 6, 1982; 47 FR 54081, Dec. 1, 1982]

## **PART 683—OTHER CONFLICTS RULES**

### **Subpart A—Financial Disclosure**

Sec.

683.10 Who must make general financial disclosure.

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683.30 Outside employment (“moonlighting”) and income.

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AUTHORITY: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

SOURCE: 47 FR 32145, July 26, 1982, unless otherwise noted.

### **Subpart A—Financial Disclosure**

#### **§ 683.10 Who must make general financial disclosure.**

(a) If you are an executive level, SES, or supergrade employee, you are a “senior employee” and must file public Financial Disclosure Reports. See § 683.11.

(b) If you are not a “senior employee”, but serve as either a program officer, a directorate administrative official, a grants and contracts officer, an auditor, or a lawyer, you must file confidential Statements of Employment and Financial Interests. See § 683.12.

(c) If you are in neither of these categories, no general financial disclosure is required of you. You may ignore the rest of this subpart.

(d) If you are required to file Financial Disclosure Reports or Statements of Employment and Financial Interests, the Foundation will supply you with the necessary forms. You may ask for them when you need them, but normally they will be sent to you automatically, with instructions.

**§ 683.11 Financial disclosure requirements for senior employees.**

(a) If you are a “senior employee” you must file an initial Financial Disclosure Report within 30 days after you first come to the Foundation or are promoted into a senior-employee position. You must thereafter file a Financial Disclosure Report by May 15 of each year. And you must file a termination Financial Disclosure Report within 30 days after you leave the Government.

(b) File your Reports with an ethics counselor. The ethics counselor will help with problems or questions that arise in completing the forms, and is required by law to review your Report after you file it. The ethics counselor may contact you about any errors you make in filling out the form or about questions that are raised by what you report.

(c) The law requires the NSF to make each Report you file available to the public within 15 days after you file it.

(d) Any person who wants to see or copy your Report must make a written request. A copy of any such request will be sent to you.

(e) If you are nominated by the President to an NSF position and must be confirmed by the Senate, your initial Report must be filed with the NSF within five days after your nomination.

(f) If you fail to file a required Report, fail to file information required to be reported, or file false information,

you are subject to disciplinary action. If you do any of those things willfully, the law requires the Director of the Foundation to report to the Attorney General, who has authority to enforce the disclosure requirements against any knowing or willful violation by suits seeking civil penalties of up to \$5,000.

**§ 683.12 Financial disclosure requirements for program officers, grants and contracts officers, auditors, and lawyers.**

(a) § 683.10(b) indicates that you are one of those who must file Statements of Employment and Financial Interests, you must file an initial Statement within 30 days after you are first appointed to a covered position either by promotion or as a new NSF employee. You must thereafter file a Statement each year by July 31.

(b) File your Statements with the Personnel Office.

(c) Your Statements will be held in the strictest confidence allowed by law. The Personnel Office will keep them in a locked file and will release them or allow disclosure of information from them only with your written approval or that of the General Counsel. Before any release or disclosure on the authority of the General Counsel you will be notified and will have an opportunity to comment, except when information is requested for an official investigation of a possible criminal violation.

(d) If you fail to file a required Statement, fail to file information required to be reported, or file false information, you are subject to disciplinary action.

**Subpart B—Acts Affecting Financial Interests**

**§ 683.20 Acts affecting your financial interests.**

(a) *No acting as a Federal employee where you have a financial interest.* You must not be personally involved as a Federal employee in handling of any proposal, award, or other matter in which you, a member of your immediate family, a business partner, or an organization of which you are or may become a part has a financial interest.